

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1003 OF 2018

Shekhar Ambo Lone

..Applicant.

vs.

The State of Maharashtra

..Respondent.

Mr. K.S.Labana for the Applicant.

Mr. Vinod Chate, APP. for the State.

CORAM: A.S.GADKARI, J.

DATE : 24th May, 2018

P.C.

1. This is an application under Section 438 of Cr.P.C. for pre-arrest bail in CR No.I-33/2018 dated 18.3.2018 registered with Alibag Police Station, District Raigad under Sections 376 and 420 of the Indian Penal Code.

2. It is the prosecution case in brief that, the applicant and first informant/prosecutrix were having friendly relations. That, the applicant proposed the prosecutrix with a promise to marry with her. That, by giving a false promise of marriage he established physical relations with her. It is the further case of the prosecution that the applicant exploited the situation and when it was revealed to the prosecutrix that she is pregnant of five months, the applicant conveniently disowned the liability and refused to perform the marriage with the prosecutrix. It is

the categorical case of the prosecutrix that by extending false promise of marriage the applicant had on various occasions sexually assaulted her. That, the said act of applicant was against the will and wish of the prosecutrix. In the premise, the first information is lodged on 18.3.2018.

3. The learned counsel appearing for the applicant submitted that, the paternity test of the applicant has to be performed at the Forensic Laboratory and for which custodial interrogation of the applicant is not necessary. He further submitted that the relations between the applicant and the prosecutrix was a consensual act between two adult persons and therefore, Section 376 of I.P.C. cannot be attracted. He therefore, prayed that the applicant may be protected by pre-arrest bail.

4. A bare perusal of the first information report would indicate that, the applicant by giving a promise to marry with the prosecutrix established physical relations with her and after it was revealed to the prosecutrix that she was pregnant of five months she along with her family members had been to the house of the applicant, where upon the applicant further assured her that he will think over the proposal of marriage and sought time. Even on 15.12.2017 the applicant gave a phone

call to the brother of the prosecutrix and assured him that he will settle the matter once for all. On the date of lodging the first information report the prosecutrix was pregnant for about nine months and as per the submission of the learned APP the prosecutrix has delivered a baby girl on 9.3.2018. The allegations against the applicant are indubitably serious in nature and those are now aggravated because of the fact that the applicant is disowning his responsibility. There is no reason for the prosecutrix to falsely implicate the applicant in the present crime which relates to her own reputation. The statement of the prosecutrix appears to be trust worthy and reliable. The investigation of the present crime is at nascent stage and unless and until the applicant is custodially interrogated the police will not be able to unearth the entire truth behind the crime.

After taking into consideration the serious allegations against the applicant and the gravity of the offence, this Court is of the view that the applicant does not deserve to be released on pre-arrest bail.

5. Application is accordingly rejected.

(A.S.GADKARI, J.)